IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Crl.Rev.Pet.No. 863 of 2000()

CRA.208/1994 of SESSIONS COURT, MANJERI
CC.174/1994 of JUDL. MAGISTRATE OF FIRST CLASS, MALAPPURAM

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REVN. PETITIONER:

C.P.ABDURAHIMAN,
S/O.POCKERKUTTY HAJI,
CHAMAPURAYIL HOUSE,
MADAVUR AMSOM, MATTAMCHERRY.

BY ADV. SRI.P.M.MOHAMED ALI
SRI.MAT.PAI

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
(CRIME NO.233/93 OF MALAPPURAM POLICE)

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.4562/2000 IN CRL.R.P.NO.863/2000

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

24/10/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.863 of 2000-C

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Dated this the 24th day of October, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279 and 338 I.P.C and sentenced to undergo simple imprisonment for six months for the offence under Section 279 I.P and to undergo simple imprisonment for one year for the offence under Section 338 I.P.C on the allegation that on 31/10/1993 at about 4.45 p.m., the accused drove lorry bearing registration No.KL 11 A/3279 through Manjeri-Perinthalmanna public road in a rash and negligent manner so as to endanger human life and hit on a motorcycle driven by PW.2 as a result of which PW.1 the pillion rider sustained grievous hurt.

2. The evidence adduced in the matter consisted of the testimony of PWs.1 to 9 and Exts.P1 to P10.

3. It is established from the evidence of the A.M.V.I and Ext.P6 inspection report of the vehicle that it had no mechanical defect. The identity of the petitioner stands proved from the testimony of the

witnesses as well as from Ext.P8 trip sheet. It also stands established that the accident took place totally on the wrong side of the vehicle driven by the accused from Ext.P4 scene mahazar and testimony of the witnesses. It is established from the evidence of PW.4 the Civil Surgeon and Ext.P3 wound certificate that PW.1sustained fracture of the right humerus. Hence, it stands established that the accident took place on account of the rashness and negligence on the part of the accused/revision petitioner. I find no reason to interfere with the concurrent findings of the court below. The conviction is confirmed.

4. The counsel for the revision petitioner has pleaded for leniency pointing out that more than 14 years have lapsed since the commencement of the proceedings and that so far the accused was facing the ordeal of the criminal proceedings. I find that in view of the long pendency of the matter imprisonment can be avoided. In the circumstances, the offence under Section 338 I.P.C is modified to imprisonment till the rising of the court and to pay compensation of rupees ten thousand to PW.1 and in default to undergo simple imprisonment for three months. No separate sentence is awarded for the offence under Section 279 I.P.C. The revision petitioner is granted two months time to remit the amount of compensation. He

shall appear before the Judicial Magistrate of the First Class, Malappuram, on 24/12/2007 to receive the sentence. The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.863 of 2000-C

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O R D E R

24th October, 2007